

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

: _____ :

UNITED STATES OF AMERICA, :

Plaintiff, : CIVIL NO: 12-CV-2039

vs. :

COMMONWEALTH OF PUERTO RICO, :
et al., :

Defendants. :

: _____ :

TRANSCRIPT OF STATUS CONFERENCE - TCA APPOINTMENT
HELD BEFORE

THE HONORABLE GUSTAVO A. GELPÍ
JOSÉ V. TOLEDO U.S. COURTHOUSE, OLD SAN JUAN, PUERTO RICO
WEDNESDAY, OCTOBER 30, 2013, BEGINNING AT 5:42 P.M.

: _____ :

A P P E A R A N C E S:

US DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
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For the Plaintiff

US DEPARTMENT OF JUSTICE
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For the Plaintiff

1 APPEARANCES CONTINUED:

2 DEPARTMENT OF JUSTICE
3 COMMONWEALTH OF PUERTO RICO
4 BY GERARDO A. De-JESUS-ANNONI, ESQUIRE
5 P.O. Box 9020192
6 San Juan, Puerto Rico 00902
7 For Commonwealth of Puerto Rico and
8 Puerto Rico Police Department

9 ALSO PRESENT:

10 Ada I. López, Courtroom Deputy Clerk
11 Gilberto Marxuach
12 Superintendent Héctor Pesquera
13 Attorney General Luis Sánchez-Betances
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1 THE COURTROOM DEPUTY: All rise.

2 (The Court enters the room.)

3 THE COURT: Please be seated and good
4 afternoon to everybody. Let's call the case for
5 status conference.

6 THE COURTROOM DEPUTY: Calling civil case
7 12-02039. United States of America versus
8 Commonwealth of Puerto Rico, Puerto Rico Police
9 Department for status conference.

10 On behalf of the government, Attorneys Luis
11 E. Saucedo, Sergio Pérez. On behalf of the
12 defendant -- of the plaintiff, Attorneys Gerardo
13 De-Jesus-Annoni, Luis Sánchez.

14 THE COURT: Betances. And I think we called
15 everybody. Gilberto Marxuach. And I will also note
16 that the police superintendent of Puerto Rico Héctor
17 Pesquera is here, as well as U.S. Marshal Juan Mattos
18 from the District of New Jersey who right now is
19 visiting us, but I will explain for the record later.

20 Now, I just want to note for the record that
21 the government did file a motion this afternoon
22 advising that the United States and the Commonwealth
23 of Puerto Rico had selected the technical compliance
24 advisor and that was U.S. Marshal Juan Mattos from
25 the District of New Jersey. And I will note Mattos

1 in this case is spelled with two Ts, even though he
2 just explained to me that that was a mistake. When
3 his dad moved to the U.S. mainland, he wrote the name
4 with two Ts and that's why he was born with the two
5 Ts.

6 Now, I know I'm wearing a bow tie and I just
7 want to note for the record it's -- I know
8 Mr. Sánchez-Betances, the attorney general, wears a
9 bow tie; so because he was coming here I did wear a
10 bow tie. And Judge Casellas also wears a bow tie.
11 It took me about 30 or 40 minutes to tie it this
12 morning using YouTube but finally I got it straight
13 by myself. So, I think I will be wearing more bow
14 ties.

15 So, having put that little humor aside, I
16 just want to note that again we met for just half
17 hour in chambers. I met Mr. Mattos. The parties --
18 I saw his resumé earlier today. I am going to
19 approve his selection by the parties; there's no
20 reason why I should not approve that selection. I
21 think he will be an excellent technical compliance
22 advisor. I think his resumé speaks for itself and
23 it's made part of the record. And I do note that he
24 has experience at the New Jersey state level. He
25 also worked when the State of New Jersey was

1 undergoing a similar process of police reform and he
2 worked in that reform. He was no longer part of the
3 State Police, he was working as part of the reform
4 team; so, he does have that experience. And I will
5 note, New Jersey is the only other U.S. jurisdiction
6 or the only state that has a statewide police reform.
7 The Virgin Islands had one but obviously the
8 population of the Virgin Islands doesn't compare to
9 that of Puerto Rico. It's probably -- it's a minute
10 police force. So, not that the U.S. Virgin Islands
11 doesn't count but we need a bigger jurisdiction to
12 compare, and I think Marshal Mattos has that
13 experience.

14 So, having said that, I would like to hear
15 from the attorneys on behalf of the United States
16 first, you're the plaintiffs, and then on behalf of
17 the Commonwealth of Puerto Rico.

18 I will note also, I know the members of the
19 media are here and they would all love to interview
20 Mr. Mattos, Marshal Mattos, unfortunately Marshall
21 Mattos is following instructions from the marshal
22 service from his supervisor; and until he no longer
23 works for the marshal service, he is not allowed to
24 give any statements to anyone because he's still a
25 U.S. marshal. So on his behalf, and I wish he could

1 today, but I know the press would like to interview
2 him, you can see him, and he'll be back here after
3 December, God willing, and once he no longer works
4 for the U.S. marshal service, he's going to be the
5 technical compliance advisor, the Court has no
6 problem. And he has informed me that he will be glad
7 to meet with all the members of the media personally
8 in a more engaging fashion.

9 So having said that, let me hear from
10 counsel for the government and then I'll hear from
11 counsel for the Commonwealth.

12 MR. SAUCEDO: Yes, Your Honor. Luis Saucedo
13 for the United States. Your Honor, as you mentioned,
14 we were advised by the Department of Justice that
15 Marshal Mattos would be restricted from speaking to
16 the press before he officially separates from the
17 Department of Justice. We, working within those
18 parameters, thought that it was important and
19 critical for Marshal Mattos to begin to meet some of
20 the stakeholders that have worked to bring reform
21 issues to light, to provide information as part of
22 our investigation, and who stand to assist and to
23 work with us in helping reform the police department.

24 In that capacity, Your Honor, we have been
25 able to meet this week with various civil rights

1 groups, including the ACLU. We were able to meet
2 with -- we have scheduled to meet with police
3 affinity groups this week. We have also met with
4 representatives of the reform unit at the police
5 department. So, Your Honor, we have taken advantage
6 of this week and Mr. Marshal Mattos' visit this week
7 to be able to meet and begin to introduce him to the
8 stakeholders.

9 And we look forward to working with them and
10 to continue to work with Marshal Mattos in his
11 capacity as the TCA who will be assisting the parties
12 in bringing about the much needed reforms that we've
13 worked hard to negotiate and that we believe will
14 bring long-lasting and sustainable reform to the
15 police department of Puerto Rico.

16 THE COURT: Okay. Thank you. And I just
17 want to note also for the record, as part of the
18 agreement reached by the parties, the TCA -- and we
19 had input from the ACLU. The TCA will be meeting not
20 only with the ACLU but with other community groups
21 and other civil rights groups. So I know nobody's
22 representing these groups right now at this point,
23 but obviously once formally in his position, he will
24 be meeting and receiving input from those various
25 groups; and I know that's very valuable and that will

1 be part of this.

2 And that group also includes the media at
3 some point not only for interviews but also I know
4 the police reform will ultimately benefit how the
5 media can cover a lot of things because I know in the
6 past there's been some issues at some point. So,
7 obviously that's going to be very beneficial to
8 everybody.

9 Let me then hear from Attorney General
10 Sánchez-Betances or co-counsel or --

11 ATTORNEY GENERAL SÁNCHEZ-BETANCES: May it
12 please the Court, Your Honor.

13 THE COURT: You don't get to come here too
14 much so take all the time you want because I know you
15 made your living in a courtroom and you loved it.

16 ATTORNEY GENERAL SÁNCHEZ-BETANCES: I
17 appreciate that very much, Your Honor.

18 Today is another important day in the
19 process of the reform of the police department. We
20 worked hard, very hard, from the beginning of our
21 administration in January to complete the
22 negotiations on the agreement for the reform of the
23 police department -- a matter that had been
24 successfully agreed by Brother Counsel Gilberto
25 Marxuach prior to our joining the government and he

1 has continued doing it. This is the second step.
2 The first step was the conclusion of the negotiation
3 and the final of the agreement. Mr. Marxuach worked
4 very hard in that matter also together with Brother
5 Counsel Gerardo De-Jesus. And now is the second step
6 which is the selection of the technical compliance
7 advisor.

8 I'm very proud of having submit the name of
9 Mr. Mattos as the ideal candidate of this.
10 Mr. Mattos is, we can say, a success story of a
11 Puerto Rican in the United States. He worked through
12 the ranks starting as a State Trooper in New Jersey
13 State Police, and he became the second highest office
14 in that police department. The first Hispanic to
15 attain that recognition or that achievement. After
16 having terminated his work as -- in the police
17 department almost 40 years, he was appointed by
18 President Obama as U.S. marshal for the district of
19 New Jersey, the post he occupies now.

20 We are certainly looking forward to have his
21 experience and know-how and cultural attachment to
22 our dear island. I must say that he has expressed
23 many times that he's Boricua and he feels very proud
24 of being a Boricua --

25 THE COURT: As they say, "*Yo soy de aquí*

1 *como el coquí.*"

2 ATTORNEY GENERAL SÁNCHEZ-BETANCES: Exactly.

3 THE COURT: I'm sure he would say that if
4 they would allow him to say it.

5 ATTORNEY GENERAL SÁNCHEZ-BETANCES: In that
6 sense, Your Honor, we think the parameters of the
7 agreement we have chosen an excellent candidate that
8 will help us achieve all the goals that the agreement
9 has stated in terms of having a professionalized
10 police department and complying with all the
11 constitutional requirements and the laws applicable
12 to it.

13 I must also recognize, Your Honor, the
14 contributions of Mr. Héctor Pesquera, our
15 superintendent of police, who has worked also very
16 hard in this process and has made all his efforts to
17 achieve this important treasure in the development of
18 a professional police department in Puerto Rico. We
19 are very grateful that he has worked in spite of
20 continuing with us this administration -- he was
21 appointed by the previous administration. So we are
22 very grateful also of his work in joining and making
23 this a success, as we understand it is.

24 As the Court has noted in its order, we are
25 going to have the benefit of his -- Mr. Mattos,

1 Marshal Mattos, as a TCA upon his termination with
2 the U.S. marshal services. And at that point or
3 before that time, as the order states, the terms and
4 conditions of his engagement, including the
5 compensation terms and everything will be duly then
6 submitted at that time; because at this stage we have
7 not -- and this is something I want to note for the
8 record -- and this is one of the characteristics of
9 Mr. Mattos. Although we have spoken with him on his
10 duties and the role as the TCA, we have not, neither
11 him or us or the Federal Government, has spoken at
12 all on his financial compensation. This is a matter
13 that --

14 THE COURT: And obviously it was waiting my
15 approval of your selection so then you can go to Step
16 B.

17 ATTORNEY GENERAL SÁNCHEZ-BETANCES: Of
18 course. So, for the disbelief of some people on this
19 island, we have not even spoken about that matter
20 which is, I think, a highlight characteristics of
21 Mr. Mattos. He has always been a public servant and
22 he will continue to be a public servant as a TCA.
23 And I'm sure that we will reach an agreement
24 satisfactory to every party. We have parameters from
25 other jurisdictions where monitors have been

1 retained. We have had monitors here in Puerto Rico
2 in other cases also. So, although he's a technical
3 compliance advisor and not a monitor and much less a
4 trustee or anything of that sort, we have the
5 parameters of which to fix the compensation and the
6 terms. This is not the first time that he has --

7 THE COURT: Well, he worked in a similar
8 case, but he was in New Jersey when it happened. So
9 everybody can get some ideas.

10 ATTORNEY GENERAL SÁNCHEZ-BETANCES: He has
11 the experience because he has worked as a police
12 officer through two consent decrees. And as I
13 explained the other time, he was not part of the
14 problem; he was part of the solution. That's why we
15 chose to select him as the TCA in this case.

16 So, we are looking forward definitely to
17 continue with the reform of the police department --
18 a thing that has already been started under the
19 leadership of Mr. Pesquera -- and to begin on this
20 new era, if we wish to call it that way, as to a
21 professional and constitutionally solid police
22 department in Puerto Rico which will definitely be
23 the best arm to fight against crime in our beloved
24 island.

25 Thank you, Your Honor.

1 THE COURT: Thank you.

2 I just also want to note -- add to what
3 Attorney Sánchez-Betances has stated. Mr. Mattos, as
4 U.S. marshal, he was confirmed by the senate of the
5 United States. Not only presidential nominee, he's
6 an appointee, but he's also been confirmed by the
7 senate. And those senate confirmations, having gone
8 through one of those, are very tedious. He underwent
9 a top secret, you know, that type of level background
10 check. So we're not talking about somebody who we
11 have -- you know, his life is an open book. And he
12 went through the senate, through the FBI background
13 check, he's been thoroughly investigated. And
14 obviously that gives, I think, more confidence to the
15 whole process.

16 Also, I do want to note -- and this is more
17 for the members of the media -- but I did speak to
18 him, he's fully bilingual. He knows about Puerto
19 Rico even though he lives in the U.S. mainland. He
20 has a lot of contact with his family and with the
21 folks in Puerto Rico; so, he does know the
22 idiosyncrasies of the island. And I think that's
23 something that's an asset. When I had spoken
24 previously with counsel for the parties I had always
25 stated, you know, I'm sure there's a hundred people

1 out there who could qualify in principle but if we
2 bring somebody from Nebraska who doesn't speak
3 Spanish, who's never been in Puerto Rico, you know,
4 can't communicate directly with the people -- again,
5 I'm not saying there was anybody from Nebraska but
6 it's just an example -- it would be very hard to
7 start, you know, this reform moving along. So, I
8 think this is going to be an asset. I think the
9 parties have found a perfect candidate. And, again,
10 this has been a candidate -- it's not the United
11 States who said, this is the candidate, it's not by
12 Puerto Rico, it's a mutually agreeable candidate.

13 Mr. Marxuach or --

14 ATTORNEY GENERAL SÁNCHEZ-BETANCES: May it
15 please the Court, Your Honor.

16 THE COURT: Yes.

17 ATTORNEY GENERAL SÁNCHEZ-BETANCES: Just one
18 thing that, I think, it should be stated for the
19 record. The selection of Mr. Mattos is the product
20 of agreeing by both parties. This is not --

21 THE COURT: Mutual consent.

22 ATTORNEY GENERAL SÁNCHEZ-BETANCES: Yes.
23 And this is not any kind of imposition. Quite the
24 contrary. I must state that the -- a proposal to
25 have him as the TCA came from me. It is the

1 candidate that was proposed by the Commonwealth of
2 Puerto Rico. We have reviewed -- there were many
3 names discussed and --

4 THE COURT: Okay. So that's also
5 interesting to know that initially you were given the
6 name and you proposed it and then the parties were
7 able to --

8 ATTORNEY GENERAL SÁNCHEZ-BETANCES: That's
9 correct, Your Honor. This is something that came --

10 THE COURT: Even though he works as a U.S.
11 marshal, it wasn't the United States Government who
12 initially came up with him --

13 ATTORNEY GENERAL SÁNCHEZ-BETANCES: Exactly.

14 THE COURT: -- it was the Puerto Rico
15 government who identified him.

16 ATTORNEY GENERAL SÁNCHEZ-BETANCES: This is
17 not something that came or was imposed or recommended
18 by the plaintiffs. This is an appointment or a
19 recommendation made particularly by me. After having
20 viewed different candidates and having discussed
21 other candidates, we proposed as the TCA to the
22 government, to the U.S. government, and they went
23 through their own process. Then last week, and only
24 last week, we agreed on that. I went to Washington
25 to meet and interview with the whole -- all the

1 pertinent persons.

2 And immediately after having reached that
3 understanding, we mad a conference call with Your
4 Honor and to let him know of our selection, then you
5 issued the minutes an order. And we were
6 particularly interested that the people of Puerto
7 Rico would know as soon as possible the appointment
8 of the selection of Mr. Mattos.

9 So, that's why the process began this week
10 immediately. I mean, we're talking on Wednesday it
11 was when the conference call was made and the
12 arrangement for flying -- he just flew in yesterday.
13 We met with the officers at the Fortaleza, the
14 interim governor, he has met with the stakeholders
15 and different community groups. He has met with the
16 police superintendent and the officers in the police
17 department. So, this has happened very fast.

18 And I understand the worries or the queries
19 of the people in Puerto Rico, but this -- the process
20 that is being followed at this stage is meeting and
21 letting the judge and the Court know of his selection
22 so that it will be approved. And then we'll take it
23 from there, and then he can make his arrangement as
24 resigning from his post and assuming the leadership
25 of the TCA. And then, we'll engage him and contract

1 with him pursuant to the agreement.

2 THE COURT: Exactly. And let me just ask
3 you. I guess this may be a question that is obvious,
4 but I assume that our governor is aware of Mr. Mattos
5 and, even though he has not met him, you fully
6 informed him and he's in full agreement with all of
7 this; correct?

8 ATTORNEY GENERAL SÁNCHEZ-BETANCES: Yes,
9 Your Honor.

10 THE COURT: I just want to make that clear.
11 And I'm sure we all know the answer but I just wanted
12 to --

13 ATTORNEY GENERAL SÁNCHEZ-BETANCES:
14 Yesterday he met the interim governor and the chief
15 of staff and the superintendent. So -- well, because
16 of the situation of his duties as U.S. marshal, we
17 couldn't -- he was not able to meet with the press
18 *pero* obviously once this process has concluded he
19 will be an open book, as all of us are.

20 THE COURT: Okay. Mr. Marxuach or
21 Mr. De-Jesus anything else?

22 MR. De-JESUS-ANNONI: Nothing to add, Your
23 Honor. Thank you.

24 THE COURT: Mr. Marxuach?

25 MR. MARXUACH: No, Your Honor.

1 THE COURT: So I've issued an order
2 approving the selection of the U.S. marshall. I will
3 read it for the record. I have some copies here,
4 which I know the members of the media here. As a
5 matter of fact, let me pass it along, have my law
6 clerk do it -- or Mr. Colón will do it. There's some
7 copies there, if anybody needs an extra copy. So the
8 order reads as follows:

9 "United States Marshal Juan Mattos" -- two
10 Ts -- "has been jointly selected by the Governments
11 of the Commonwealth of Puerto Rico and the United
12 States to act as the Technical Compliance Advisor,
13 the TCA, as per the terms of the agreement approved
14 by the Court on July 17, 2013."

15 And that's at Docket No. 60. There was an
16 order I issued before, I made a mistake, I put
17 August 17th. There's an amended order, that's why it
18 got amended, it was just that typo.

19 "Accordingly, Marshal Mattos' selection is
20 hereby approved by the Court. Upon his resignation
21 as U.S. Marshal, his appointment shall become
22 effective on or after December 1, 2013."

23 And I say "on or after," I assume he's going
24 to resign before that but if for any reason if
25 anything happens that he shall have a to remain as

1 marshal two weeks, a month, then once he resigns, the
2 appointment will be effective.

3 Now, "The terms and conditions of his
4 engagement as TCA shall be determined in accordance
5 with the Agreement." Which is again at Docket
6 No. 60.

7 Now, and this is also in the order, "Due to
8 the high public importance of the instant matter, the
9 Court hereby notes the following: The TCA responds
10 to the Court and his specific role is to assist and
11 recommend the Commonwealth of Puerto Rico and the
12 United States how to effectively comply with the
13 terms of the Sustainable Reform of the Puerto Rico
14 Police Department Agreement.

15 "The TCA," and I emphasize, "is not the
16 chief nor supervisor of the Commonwealth of Puerto
17 Rico."

18 Mr. Pesquera, you're aware of that; correct?

19 SUPERINTENDENT PESQUERA: Yes, sir.

20 THE COURT: "And the TCA's role is not to
21 manage the day-to-day affairs of the Commonwealth of
22 Puerto Rico. Said role exclusively lies within the
23 current superintendent Héctor Pesquera who responds
24 only to the governor of Puerto Rico."

25 Mr. Pesquera, you're in agreement with that

1 as well; correct?

2 SUPERINTENDENT PESQUERA: Yes, sir.

3 THE COURT: Okay. Now, the T -- and I want
4 to say this because it's important so nobody's
5 confused. This is -- Marshal Mattos will not be
6 micromanaging the affairs of the Police of Puerto
7 Rico. If there's a police operative, if there's
8 anything, that's outside of the parameters of the
9 Reform; he will not be involved. He's not going to
10 be there on a day-to-day basis telling Mr. Pesquera,
11 You've got to do this or you've got to do that. No.
12 That is Mr. Pesquera's sole and exclusive
13 prerogative, and I want that to be very clear.

14 Now, "The TCA, thus, in no way will
15 interfere, nor intervene, with the constitutionally
16 constituted Government of Puerto Rico and its
17 nondelegable obligation of promoting the peace,
18 safety and public welfare of the populace."

19 Now, I also want to recall that in this case
20 the role of the Court, my role as a judge, "...is not
21 the traditional one of adjudicating and resolving
22 disputes. Rather," the Court -- I'm the judge
23 here -- along with the TCA are going to "...act as
24 facilitators for the Commonwealth and the United
25 States Government to work hand in hand in reforming

1 Puerto Rico's police department." And that is the
2 scope of the order.

3 So, that being said, I have nothing else to
4 add. I know it's been a very, very busy week for the
5 Attorney General here and I know also for the
6 governor and the Commonwealth of Puerto Rico. On
7 Monday and Tuesday you had the milk case before Judge
8 Domínguez which hopefully has been resolved as well
9 and, you know, obviously today I'm approving the
10 selection of the TCA and the week is not over yet.
11 So, I hope to maybe by tomorrow or Friday hear some
12 other good news.

13 I worked at the Justice Department for four
14 years. I have to say as an attorney it was the best
15 four years I spent. So I'm always proud and happy
16 when the Department of Justice settles cases or, you
17 know, brings good news to the public, because I have
18 a lot of faith in that agency and its secretary.

19 Having said that, court is adjourned. And,
20 again, unfortunately Mr. Mattos cannot meet with the
21 press at this time. He will do so once he's here
22 officially as the TCA, and I guarantee all the
23 members of the media, you will have an opportunity to
24 meet him, to know about his background, to interview
25 him throughout the years. I know he will be here.

1 This is not a six-month thing; this is a -- it's like
2 at least like Star Trek, it's a five-year mission.
3 This is probably, you know, hopefully less than ten
4 years, more than five. But you're going to see a lot
5 of him and you'll have time to meet him.

6 And I know Mr. Pesquera and Attorney
7 Sánchez-Betances will be here so you can ask them all
8 the questions. And I'll be glad if any particular
9 members of the media wants to ask me anything. I
10 normally don't do this, but since this is a unique
11 case, it's not being litigated. I will also be glad
12 for a few minutes to meet with anybody, should you
13 want to meet with me.

14 Having, said that court is adjourned, and
15 you have the copies of the orders. Thank you very
16 much. Court is adjourned.

17 (Status Conference concluded at 6:06 p.m.)

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1 UNITED STATES DISTRICT COURT)
2 OF) ss.
3 PUERTO RICO)
4
5
6

7 CERTIFICATE
8
9

10 I, EVILYS E. BRATHWAITE, hereby certify that
11 the proceedings and evidence are contained fully and
12 accurately, to the best of my ability, in the notes
13 recorded stenographically by me, at the status
14 conference in the above matter; and that the
15 foregoing is a true and accurate transcript of the
16 same.
17

18 /s/ Evilys E. Brathwaite

19 EVILYS E. BRATHWAITE, RPR
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